



Disability Rights online News

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Civil Rights Division

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Disability Rights Online News

is a bi-monthly update about the Civil Rights Division's activities in the area of disability rights. The Division enforces laws prohibiting discrimination based on disability in employment, housing, access to businesses serving the public, access to government programs and services, including voting and public transportation, and unconstitutional conditions in institutions of confinement.

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OWNERS AND MANAGERS OF MICHIGAN APARTMENT COMPLEX WILL COMPENSATE DISABLED TENANT FOR RETALIATION

On January 18, 2007, a federal court in Michigan approved a settlement of the Department's suit against the owners and managers of the Fairway Trails Apartments in Ypsilanti. The Department alleged in its complaint that the defendants retaliated against tenant Harry Tyus for having asserted his rights under the Fair Housing Act. Mr. Tyus, who receives monthly Social Security Disability Income payments from the Social Security Administration, had requested to pay his rent on the 20th of each month,

(Continued on page 2)

TENNESSEE RESTAURANT AGREES TO ALLOW SERVICE ANIMALS

On December 20, 2006, the Department entered into a settlement agreement with Shoney's, LLC, in Columbia, Tennessee, resolving a complaint alleging that a customer was told to leave the restaurant because she was accompanied by a service animal. The settlement agreement requires Shoney's to revise its service animal policy and post a sign stating that service animals are welcome in the restaurant. The complainants had previously settled their separate suit filed in federal court and received damages of \$1,000 plus attorneys fees of \$5,518.16.

Under the ADA, all businesses open to the public -- including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos -- must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. For more information, visit www.ada.gov/reachingout/lesson13.htm and www.ada.gov/svcanimb.htm

(Michigan Apartment, continued)

after he receives his disability check. The defendants refused and pursued eviction proceedings when he did not pay his rent at the beginning of the month. At a state court eviction hearing, the judge ruled that the Fair Housing Act required the defendants to grant Mr. Tyus a reasonable accommodation allowing him to pay his rent the third week of every month. Two days later, however, the defendants sent Mr. Tyus a letter stating that his lease would not be renewed and, ultimately, he was forced to move out.

After receiving the letter, Mr. Tyus filed a fair housing complaint with the U.S. Department of Housing and Urban Development (HUD). HUD investigated the matter, issued a charge of discrimination, and referred the matter to the Justice Department, which filed the lawsuit in May 2006. The consent decree requires the defendants to pay Mr. Tyus \$50,000, to attend fair housing training, and to comply with record keeping and reporting provisions for three years.

- modify five additional guest rooms to make them accessible to people with hearing impairments.

On January 25, 2007, the owners and operators of the Hampton Inn located in the historic district of Charleston, South Carolina, entered into a settlement agreement with the Department resolving a complaint filed by a man who alleged that during his stay at the hotel his mother was unable to use her guestroom's shower due to the lack of maneuvering clearance and the lack of an accessible shower or tub. The owners agreed to modify four existing accessible rooms and four additional rooms so that each is fully accessible to people with disabilities. They will also modify the toilet rooms in the hotel's lobby to comply fully with the ADA Standards, ensure that there are accessible routes into and throughout the hotel, provide accessible parking, and provide accessibility equipment such as TTY's, closed captioned televisions, and visual notification devices for guests with hearing disabilities. In addition, the hotel will train staff members in all ADA issues relevant to the operation of the hotel facility.

HOTELS IN ARIZONA AND SOUTH CAROLINA WILL MAKE ACCESSIBILITY IMPROVEMENTS

On January 16, 2007, the owner and operator of the Viscount Hotel in Tucson, Arizona, entered into a settlement agreement with the Department resolving a complaint that the hotel's parking lot and open dining area were not accessible to people with disabilities. In addition to investigating the issues raised in the complaint, the Department conducted a compliance review of the hotel and identified additional accessibility problems. In the settlement agreement, the owner agreed to:

- remove barriers in the parking area, including connecting the accessible

parking spaces to an accessible route;

- modify at least one telephone in the lobby to be accessible to people who use wheelchairs;
- make available and maintain without cost to guests a portable TTY for use at the public telephone bank located in the hotel lobby area;
- remove barriers in the public toilet rooms located on the ground floor of the lobby;
- install proper signage at the elevators;
- remove physical barriers in seven designated accessible guest rooms; and

LOCAL AGENCIES IN KENTUCKY SIGN ADA AGREEMENTS

On January 30, 2007, the Department signed settlement agreements with the Pike County (Kentucky) Library District and the Pike County Health Department under Project Civic Access. Project Civic Access is the Department's wide-ranging initiative to work cooperatively with local governments to ensure that people with disabilities have an equal opportunity to participate in civic life, a fundamental part of American society. The agreements cover the Library District's and Health Department's programs

and activities, including: notification to patrons about the requirements of the ADA, training employees on the provisions of the ADA and the requirement of effective communication, updating employment policies in accordance with the EEOC's regulations, assessing and maintaining the accessibility of the agencies' website and web-based services. In addition, the agreements require remedial action for violations of the ADA Standards found in five of the Library District's facilities and two of the Health Department's facilities.

Two additional installments of the ADA Best Practices Toolkit for State and Local Governments, as described in newsletter #17 (www.ada.gov/disabilitynews.htm), have been released and are available at www.ada.gov/pcatoolkit/toolkitmain.htm. They address the ADA's requirements for effective communication and the requirements for 9-1-1 and emergency communications

the ADA Business Connection was initiated in January 2002 to bring together leaders of business and disability rights organizations to discuss issues of common concern and to develop ongoing collaborations that increase business's voluntary compliance with the ADA.



Randy Vest from McDonald's Hamburger University speaking at the ADA Business Connection meeting in Washington

The January event was co-hosted by Susan M. Phillips, Dean of the George Washington University School of Business, and Troy R. Justesen, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education. Participants included faculty and administration of area university business schools, executive directors of high school and college business education organizations, and people with disabilities. The speaker for the meeting was Randy Vest, Senior Director for U.S. Training at McDonald's Hamburger University. The meeting focused on ways to get

AAG HOSTS ADA BUSINESS CONNECTION MEETINGS IN WASHINGTON AND CHARLOTTE

Assistant Attorney General Wan J. Kim has hosted two ADA Business Connection Leadership meetings so far this year. The first meeting was held on January 23, 2007, at the George Washington University School

of Business in Washington, D.C. The second meeting took place on March 7, 2007, as part of the Asian American Hotel Owners Association (AAHOA) annual convention in Charlotte, North Carolina. Now in its fifth year,

(Business Connection, continued)

future business leaders thinking about the importance of marketing to people with disabilities. One business school dean homed in on the meeting's objective by stating, "There are wonderful opportunities for marketing and entrepreneurship that we have not tapped into as business educators. I think this is a good start by having these conversations."



Mukesh Mowji, Chairman of AAHOA, speaking at the ADA Business Connection meeting in Charlotte

In Charlotte, North Carolina, the meeting was co-hosted by AAHOA's President Fred Schwartz and Chair Mukesh Mowji and Disability Rights and Resources' Executive Director Julia Sain. The event attracted a record number of guests, many of whom were hotel owners and operators from AAHOA. The meeting's two speakers brought to their presentations expertise on removing both physical and attitudinal barriers in order to welcome hotel guests with disabilities. Roy Flora, Chief Operating Officer, U.S. Franchises Systems, Inc., spoke about the substantial efforts that one of his corporation's chains, Microtel Hotels, is making to build brand loyalty and increase market share by attracting and welcoming travelers with disabilities. Monique Stamps, Peer Advocate, Disability Rights and Resources, spoke from personal and professional experience about barriers routinely encountered by hotel guests with disabilities. Both Mr. Flora and Ms. Stamps stressed the need for training all hotel employees on issues of accessibility to bring down attitudinal barriers and bring up the quality of accessible customer service.

A primary concern of the AAHOA board members at this meeting was abusive filings of ADA lawsuits against small, independent hotel owners. AAG Kim emphasized in his remarks to the gathering that, like other civil rights laws, the ADA was passed to stop discrimination, not to bring financial reward to lawyers and plaintiffs. "Abusive lawsuits serve no one and, most unfortunately, usually do more to build ill will than to eliminate barriers to access. At the same time, it is essential to recognize that many of these lawsuits have at their cores legitimate violations of the ADA. If we join forces, we can remove barriers, eliminate discrimination against people with disabilities, and make our businesses less vulnerable to unnecessary lawsuits."

MEMPHIS-AREA APARTMENT COMPLEXES WILL MAKE ACCESSIBILITY RETROFITS

On February 15, 2007, a federal court in Memphis approved a settlement of the Department's lawsuit against a group of developers, builders, architects, and engineers, whom the court had previously found to have violated the Fair Housing Act. The Department's suit, which was filed in November 2001, joined a case filed earlier by the Memphis Center for Independent Living (MCIL), a disability rights organization. The Department and the MCIL alleged that the defendants failed to design and construct the Wyndham Apartments in Memphis and Camden Grove Apartments in Cordova, Tennessee, with required features for people with disabilities.

The settlement requires the Richard and Milton Grant Company, its principals and affiliated entities, and their architects and engineers, to retrofit apartments and public and common use areas at the two complexes and to provide accessible pedestrian routes from front entrances of

(Memphis case, continued)

ground floor units to public streets and on-site amenities. The defendants must also establish a Community Retrofit Fund of \$320,000, administered by the MCIL, to enable qualified individuals with disabilities in Shelby County, Tennessee, to make accessibility improvements in their residences. These funds can be used to make improvements beyond the minimum requirements of the Fair Housing Act and comparable state or local laws, including residences that are not subject to the accessibility requirements of these laws. In addition, the defendants are required to pay \$10,000 in compensatory damages to the MCIL and \$110,000 in civil penalties to the government and to undergo training on the requirements of the Fair Housing Act and the Americans with Disabilities Act.

CASE INVOLVING RACIAL, DISABILITY, AND FAMILY STATUS DISCRIMINATION IS RESOLVED

The Justice Department and the former owners and manager of Bonanza Springs Apartments in Las Vegas, Nevada, have settled a case alleging discrimination in housing on the basis of race, disability, and family status. Under the settlement, which was approved by the federal court in Las Vegas on March 20, 2007, the defendants must pay \$285,000 to identified victims of discrimination and \$165,000 to the government as a civil penalty.

The government's complaint alleged that Bonanza Springs LLC, Temple Development Corporation, Temple 1991 Revocable Trust, Temple Investment Trust, and their managing agent, "RJ" A. Barry, violated the Fair Housing Act when they discriminated

against African Americans, people with disabilities, and families with children. Among other things, the defendants assigned black residents to less desirable units in the complex, refused to move a resident who uses a wheelchair to an available first floor unit, and enforced a written policy prohibiting children from residing in the complex. The defendants no longer own or manage residential rental properties.

"All Americans have the right to seek fair housing in their communities, a long-standing guarantee of federal law," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "[This] settlement demonstrates the Justice Department's strong commitment to enforcing these fundamental protections."

PENNSYLVANIA APARTMENT COMPLEX SUED FOR REFUSING TO RENT TO PERSON WITH A SERVICE ANIMAL

On February 1, 2007, the Department filed a lawsuit against the rental manager and owners of Barrcrest Manor Apartments, an apartment complex in Lancaster, Pennsylvania. According to the complaint, which was filed in federal court in Philadelphia, the defendants refused to rent an apartment to a visually impaired individual who uses a guide dog, in violation of the Fair Housing Act.

"The services of guide dogs are essential to individuals with visual impairments," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "Our fair housing testing program will continue to proactively root out violations of the Fair Housing Act and ensure non-discriminatory treatment."

(Pennsylvania case, continued)

The Department of Justice conducted its investigation through the use of fair-housing testers – individuals who pose as renters for purposes of gathering information about possible discriminatory practices in the rental of apartments. The complaint seeks damages to compensate individuals injured by the defendants' conduct, and seeks to ensure that the defendants discontinue their discriminatory practices. Individuals who believe that they may have been the victim of housing discrimination by Barrcrest Manor Apartments should call the Justice Department's Housing and Civil Enforcement Section at 1-800-896-7743, ext. 2.

ADA MEDIATION HIGHLIGHTS

The ADA Mediation Program is a Department sponsored initiative intended to resolve ADA complaints in an efficient manner. Mediation cases are initiated upon referral by the Department when both the complainant and the respondent agree to participate. The program uses professional mediators who are trained in the legal requirements of the ADA and has proven effective in resolving complaints at less cost and in less time than traditional investigations or litigation. Over 75% of all complaints mediated have been settled successfully.

In this issue, we highlight complaints against sports venues that have been successfully mediated.

■ In Texas, a husband complained on behalf of his wife who has a mobility impairment that an automobile racing event

at a large track was inaccessible. The accessible parking was not properly marked and was blocked by large equipment and motorcycles, and there were many obstacles in the accessible path of travel. The track agreed to move the accessible parking, to provide an accessible path of travel with better lighting, to install appropriate signage, and to ensure that contractors would not block the accessible parking.

■ In New Hampshire, a wheelchair user and a companion complained about the possibility that tickets for accessible wheelchair seating were being sold by a professional sports team in Ohio to people who did not need accessible seating. The team agreed to add a notice about ticket fraud and the proper use of tickets on its website and on all brochures and mailed materials. The team

also agreed to state at the time of purchase that the accessible seating is intended for the use of wheelchair users and companions. In addition, the team will hold unsold accessible seats for 72 hours after a game is sold out before making them available to the general public. For games that are not sold out, it agreed to hold 50 accessible and 50 companion seats until the day of the game before releasing them for general sale.

■ In Texas, an individual alleged that a professional sports organization charged a higher price for wheelchair accessible seating than for general seating. The sports organization reaffirmed its policy of charging the same price for all seats and agreed to install additional accessible seating and parking and to locate accessible restrooms throughout the sports venue.

■ A wheelchair user in Washington attended a stadium sporting event and complained that standing patrons were crowding the accessible seating area from behind and that vendors were using the accessible seating area as a walkway between seating sections and as a place to store the items they were selling. The stadium agreed to train ushers to keep space behind accessible seating areas clear and to instruct vendors to use alternate

(ADA Mediation, continued)

paths between seating sections and not to store their goods in accessible seating areas. In addition, the stadium offered the complainant a special preferred seating package, including accessible seats.

■ In North Carolina, a wheelchair user who called a racetrack for tickets complained that he was told the racetrack did not have companion seating. The owners of the racetrack confirmed in mediation that they did, in fact, have companion seating available, but that employees were not aware of it at the time the complainant called. The racetrack owners developed a comprehensive policy on providing companion

seating and trained employees in implementing the policy. In addition, the racetrack owners provided four suite tickets to a future NASCAR race at any of their facilities and \$8,500 in compensation. They also agreed to try and arrange a meeting between the complainant and a racing superstar.

■ A wheelchair user complained that a grandstand at an outdoor Oregon entertainment venue was inaccessible. The facility agreed to provide 16 accessible parking spaces (including four van-accessible spaces), accessible portable toilets, and an accessible route throughout the facility. Additionally, it converted a central

viewing area to accessible seating, including companion seating, issued a formal apology to the complainant, and provided ADA training to all employees.

■ In Ohio, a person with a mobility disability complained that seating on the upper deck of a public arena was inaccessible. The arena made an accessible elevator in an adjoining clubhouse available for general use, posted signs throughout the facility indicating the elevator's location, and trained staff to direct patrons with mobility disabilities wanting to access the upper deck to the clubhouse elevator.

RECENT OUTREACH ACTIVITIES

■ On January 20 through January 24, employees staffed an exhibit booth and gave a presentation at the American Correctional Association's 2007 Winter Conference in Tampa, Florida. The seminar addressed how title II of the ADA applies to correctional facilities and operations.

■ On January 28 and 29, staff made two presentations at the Community College Conference on Legal Issues in Lake Buena Vista, Florida,

addressing disability issues in higher education.

■ On January 30, in recognition of National Consumer Protection Week, the syndicated household advice column "Hints from Heloise" promoted a free package of fifteen consumer publications available from the Federal Citizen Information Center (FCIC) in Pueblo, Colorado, including the Department's *A Guide to Disability Rights Laws*. This 21 page booklet provides a

brief overview of ten Federal laws that protect the rights of people with disabilities and gives contact information for the enforcing agencies. As of February 19, more than 31,000 copies of the packets had been ordered through the FCIC. "Hints from Heloise" appears daily in more than 500 newspapers in the United States and internationally and has a vast readership that has been estimated at more than 50 million readers.

(Outreach, continued)

- On February 12, staff made a presentation to the National Auctioneers License Law Officials Association at their winter conference in Tucson, Arizona. Attendees of this event included state regulators who monitor the testing examination for auctioneers. The presentation addressed how the ADA applies to state testing examinations.
- On February 13, staff participated in an audio conference with representatives from the ten ADA and IT Technical Assistance Centers funded by the U.S. Department of Education. Staff answered questions and provided an update on the Department's ADA activities.
- On March 6, staff made a presentation to the International Association of Amusement Parks and Attractions (IAAPA) in Alexandria, Virginia, on the Department's rulemaking under the ADA.
- On March 8, staff participated in a panel discussion at the American University Washington College of Law in Washington, DC. The discussion concerned clinical and externship programs relating to students with disabilities.
- On March 10, staff made a presentation to the Asian American Hotel Owners Association (AAOHA) in Charlotte, North Carolina, about the Department's rulemaking under the ADA.
- On March 15, DOJ staff made a presentation to the first year class of the Cornell Medical School at New York Presbyterian Hospital in New York City. The focus of the presentation was an overview of the ADA and other disability rights laws, general disability related issues, and considerations when interacting with patients with disability and chronic care issues. Before the presentation, all 105 students had participated in an exercise which required them to travel a specific route within the medical school and hospital using a wheelchair.
- On March 20, 2007, DOJ staff, along with staff of the Access Board, participated in the first ADA In-Forum sponsored by Virginia Tech in Blacksburg, Virginia. The day-long program was attended by administrators, architects, facilities managers, faculty, and EEO and student-services staff from Virginia Tech and other Virginia colleges and universities, local government officials, and individuals from the private sector, including architects and designers, facilities managers, and contractors. The DOJ representatives presented an overview of the ADA and the provisions affecting physical access; examples of good and bad approaches to accessibility; and information on planning, transportation, emergency preparedness, and historic buildings. Access Board staff covered the provisions of the new ADA Guidelines. DOJ also led an interactive discussion of design drawings for Virginia Tech facilities.